



## STATE BOARD OF LAND COMMISSIONERS

James E. Risch, Governor and President of the Board

Ben Ysursa, Secretary of State

Lawrence G. Wasden, Attorney General

Keith L. Johnson, State Controller

Marilyn Howard, Superintendent of Public Instruction

George B. Bacon, Secretary to the Board

### Final Minutes Regular Land Board Meeting October 10, 2006

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, October 10, 2006 in Boise, Idaho. The meeting began at 9:13 a.m. in the second floor courtroom of the Borah Post Office building. The Honorable James Risch presided. The following members were present:

Honorable Secretary of State Ben Ysursa  
Honorable Attorney General Lawrence G. Wasden  
Honorable State Controller Keith L. Johnson  
Honorable Superintendent of Public Instruction Marilyn Howard  
  
Secretary to the Board Interim Director George Bacon

#### • **CONSENT**

**Governor Risch noted there are four items on the Consent calendar. He asked if there was any discussion or any request to remove an item from the Consent calendar.**

**A motion was made by Attorney General Wasden to adopt the Consent Agenda in its entirety. Secretary of State Ysursa seconded the motion. The motion carried on a vote of 5-0.**

#### **1. Director's Report – approved**

- A. Interest Rate on Department Transactions – September 2006
- B. Bureau of Real Estate, Land Sale Section, Official Transactions – August 2006
- C. Bureau of Real Estate, Easement Section, Official Transactions – August 2006
- D. Timber Sale Official Transactions – August 26, 2006, through September 22, 2006
- E. Timber Sale Activity Report
- F. Legal Matter Summary
- G. Bureau of Surface and Mineral Resources, Official Transactions – August 2006
- H. Fire Season Summary

2. **Timber Sales** – Staffed by Roger Jansson, Operations Chief-North, and Steve Douglas, Operations Chief-South – approved

A. Dodge Peak	CR-21-3011	1,570	MBF	Boundary
B. Ponderosa Pole	CR-41-0027	550	MBF	Latah & Clearwater
		208,450	LF	
C. Jacobson Creek	CR-80-0093	1,445	MBF	Caribou & Franklin

3. **Disclaimer of Interest for the Former Bed of the Snake River, Bonneville County** – Staffed by Perry Whittaker, Chief, Bureau of Real Estate – approved

*DEPARTMENT RECOMMENDATION:* Direct the Department to issue a disclaimer of interest for one parcel totaling 10.14 acres of the former bed of the Snake River and to require Idaho Fresh-Pak, Inc., to pay a fee of \$600.00 to the Department of Lands for this transaction.

*BOARD ACTION:* Approved.

4. **Approval of Minutes** – approved

A. Regular Land Board Meeting – September 12, 2006

• **REGULAR**

5. **Endowment Fund Investment Board Manager's Report** – Presented by Larry Johnson, Manager of Investments, EFIB

Mr. Johnson provided background information. For the month of September, the Fund had an absolute return of 1%, and for the first three months of the year, the Fund is up 2.7%. The EFIB will meet in November to review quarterly results. Currently managers are performing within their normal ranges. Mr. Johnson also called the Board's attention to additional information in their briefing material which summarizes the activities of the EFIB since the last Land Board meeting. The EFIB members will attend the November Land Board meeting.

No action taken on this agenda item.

6. **Land Bank Purchase – Conceptual Approval (Bovey Site, Craigmont)** – Presented by Steve Douglas, Operations Chief-South and Kathy Opp, Division Administrator, Support Services – approved

*DEPARTMENT RECOMMENDATION:* Authorize the Department to enter into a Purchase/Sale Agreement with an earnest money deposit not to exceed \$1,500 contingent upon: (1) EPA environmental clearance and release from liability of current and subsequent owners for environmental and/or hazardous materials that were present on the site on or prior to the date of purchase by IDL; (2) An appraisal supporting the purchase price; (3) Land Board approval of the transaction.

*DISCUSSION:* Governor Risch asked if the EPA certification is level one, two or three. Administrator Opp stated the site has been remediated under EPA guidelines and the owner is awaiting certification. The soils have been removed from the site. However, she is unsure of the EPA certification level. Operations Chief Douglas stated the site was formerly a gas station. Some issues were addressed in the 1990s and all of the Department's administrative sites have been remediated.

Attorney General Wasden stated it is his understanding that this is to be funded out of land bank funds and there is a time period in which those funds will revert to their respective endowment. He asked if there are any other transactions on the horizon that these funds could or should be used for rather than this transaction. Administrator Opp stated historically the land bank money has been held in anticipation of exchanges. This would be the first purchase. She believes the Department needs to start moving on acquisitions so that the funds do not revert. Because this transaction is only \$75,000, she does not see it as detrimental to any transactions on the horizon.

Attorney General Wasden asked if this purchase goes through, are there plans to allow public access for city hall or town hall meetings. Operations Chief Douglas stated that option could be considered.

Superintendent Howard commented there is no need to hurry and spend funds before those funds revert to the permanent fund. Addition of funds adds stability in the long term. However, she does feel that this proposal fills a need and could be a benefit to the community as well as a benefit to the Department.

Governor Risch commented that it seems it would be simpler for the Department to buy the property outright.

Secretary of State Ysursa stated he initially had some reservations. However, he is comfortable with the Department's explanation. He agreed with Superintendent Howard that it is not a mortal sin for money to revert to the permanent fund and for the EFIB to invest those funds in their capable manner.

Attorney General Wasden stated his understanding is that this is a preliminary approval and not a conclusive sale. He is interested in hearing the pros and cons of an outright purchase versus this financing mechanism. He noted whether this is a proper use of the land bank funds is a good question. While \$75,000 is not a lot of money and the purchase makes sense in terms of its location to the current facility, the question seems to concern financing and how this purchase is to take place.

Governor Risch stated his issue, based on \$75,000 plus yearly rent, is that more money will be spent in administrative costs over the term of the lease. That aside, Governor Risch believes the motion is to enter into a purchase sale agreement with an earnest money deposit of \$1500. If the Board votes for this motion, the proposal will go forward. He stated his only reservation is about fragmenting something this small.

**BOARD ACTION:** A motion was made by Controller Johnson that the State Land Board adopt the recommendation of Department staff regarding the Bovey site purchase. Attorney General Wasden seconded the motion. The motion carried on a vote of 5-0.

**7. State Board of Land Commissioners/Department of Lands Director Roles, Relationships and Expectations – Transition Guidance – Presented by George Bacon, Interim Director – approved**

**DEPARTMENT RECOMMENDATION:** That the Board adopt the outline presented as Attachment 1 with this Board Memo as a transition document and general guideline to help clarify the roles, relationships and expectations of the State Board of Land Commissioners and the Director of the Department of Lands.

**DISCUSSION:** Governor Risch complimented Director Bacon for presenting an excellent document to the Board. While he supports the document, he has an issue with communications, number one, which reads "The Board expects the Director to answer to the Board in quorum, not individual board members or board staffers." If he has an issue with a CEO, he wants to talk with that person directly without the need for a quorum to be assembled before that communication can take place.

While concurring with Governor Risch, Controller Johnson explained in the past the rub has come when one member of the Board directs the Director to take action for the Department without consulting other members of the Board. Governor Risch agreed that one member of the Board can not direct the CEO to do something that is substantive without concurrence of a quorum of the Board.

Secretary of State Ysursa stated most of the problems in any organization center around communication. However, due to the inherent relationship between the State's Chief Executive and Department heads, sometimes a relationship is set up where a Director believes that he or she answers at times to that one person. However with this Board, made up of five elected officials, each member of the Board has an equal vote. While he has had no problem calling the Department to ask questions about different topics, he understands that final resolution or action must be taken by the full Board.

Governor Risch noted that the operations of any corporation are generally run similarly. That is, you have a CEO, Board of Directors and Chairman of the Board. These boards are frequently personality driven. He suggested the wording could be refined in Communications, item number one, to say that any member of the Board or staff is free to communicate with the Director, but that any final decision must be made by a quorum of the Board.

Attorney General Wasden suggested working with the language on items four, Department Management, and two, Decisionmaking, and perhaps additional effort on item one, Communication. He complimented Director Bacon on the overall document and stated it is a wise step to make certain that all members of the Board have an understanding about their roles, relationships and expectations. Governor Risch agreed and stated this will be a very helpful document for ongoing operations.

Attorney General Wasden suggested presenting the revised document at the November Board meeting. He noted that a new Board will be in place in January and the process can be repeated with the new Board members at that time.

*BOARD ACTION:* Noting that edits have been suggested for this document, a motion was made by Attorney General Wasden to move this item to the November Land Board meeting agenda. The motion carried by unanimous consent.

- **INFORMATION**

- 8. **Idaho Supreme Court Decision In Re: Sanders Beach** – Staffed by Nick Krema, Deputy Attorney General

No action was taken on this agenda item.

*At 10:00 a.m. a motion was made by Attorney General Wasden to resolve into Executive Session. Controller Johnson seconded the motion. The motion carried by unanimous consent.*

- **EXECUTIVE SESSION**

- A. **To Consider Records that are Exempt from Disclosure** [\[Idaho Code § 67-2345\(1\)\(d\)\]](#)

- B. **To Consider and Advise Its Legal Representatives in Pending Litigation or Where There is a General Public Awareness of Probable Litigation** [\[Idaho Code § 67-2345\(1\)\(f\)\]](#)

C. To Consider Personnel Matters [[Idaho Code § 67-2345\(1\)\(b\)](#)]

D. To Consider Acquiring an Interest in Real Property Which is Not Owned by a Public Agency [[Idaho Code § 67-2345\(1\)\(c\)](#)]

*At 10:20 a.m. a motion was made by Attorney General Wasden to resolve into Regular Session. The motion carried by unanimous consent.*

Upon returning to Regular Session, Attorney General Wasden stated the Executive Session covered an item under Idaho Code § 67-2345(1)(f), To Consider and Advise Its Legal Representatives in Pending Litigation or Where There is a General Public Awareness of Probable Litigation. No action was taken by the Board during the Executive Session.

There being no further business to come before the Board, at 10:21 a.m. a motion was made by Attorney General Wasden to adjourn. Secretary of State Ysursa seconded the motion. The motion carried by unanimous consent.

IDAHO STATE BOARD OF LAND COMMISSIONERS

/s/ James E. Risch

President, State Board of Land Commissioners and  
Governor of the State of Idaho

/s/ Ben Ysursa

Ben Ysursa  
Secretary of State

/s/ George B. Bacon

George B. Bacon  
Interim Director

<p>The above-listed final minutes were approved by the State Board of Land Commissioners at the November 14, 2006 regular Land Board meeting.</p>
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